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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,271	03/27/2001	Robert W. Fair	12492-02/NEC	1967

7590 08/20/2004

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EXAMINER

FISCHETTI, JOSEPH A

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/820,271

Applicant(s)

FAIR ET AL

Examiner

Joseph A. Fischetti

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 11-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claims 11-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species/inventions, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10⁵ rejected under 35 U.S.C. 101 because the claims fail to incorporate any technological art, e.g. computer implementation.

Claim Rejections - 35 USC § 103

Claims 1-3,6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al in view of Conklin et al.

Shavit et al disclose forming a business relationship between the third party intewractive market management system 50) and a plurality of business service providers (sellers 83,84,96,94);facilitating communication between the business service providers and clients of the business service providers (buyers 82) via the network (50); facilitating automatic billing of the client and automatic payment of the business service provider for a consultation (col.28, function 390 provides for direct payment which is read as "automatic".

However, although Shavit et al. disclose information services, nevertheless fail to disclose facilitating negotiation between the business service provider and the clients for a time based consulting fee. Conklin et al. Disclose an iterative bargaining system which allow purchaser and seler to iteratively negotiate price on line before sale. It would be obvious to modify Shavit et al to include such a negotiating engine the motivation being that this would give the benefit of the bargain to the transaction.

Re claim 2: System 50 is disclosed as carrying out payment instructions see col. 8 lines 57-58);

Re claim 3: Shavit et al. disclose online pubic networks e.g. internet.

RE claim 6: Shavit et al. disclose a personal computer 62.

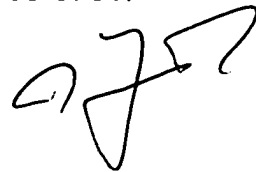
Re claim 7,8,9, 10: col. 9 lines 60-61 disclose security protocols which insure secure communications which protocols and a common level of security between the two parties. Col. 9 lines 65-68, four levels of security supports different protocols the highest level being the obvious level of choice.

Claims 1,4,5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit et al in view of Conklin et al. as applied above, and further in view of Elliot et al. The aforesaid combination fails to disclose facilitating communication between business service providers and clients which use different communications protocols with respect to one another. However, Elliot et al. do disclose facilitating communication between business service providers and clients which use different communications protocols with respect to one another. It would be obvious to modify the aforesaid

combination with a different communication protocol facilitator, the motivation being the ability to communicate through different systems.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to PRIMARY EXAMINER Joseph A. Fischetti at telephone number (703) 305-0731.

A handwritten signature in black ink, appearing to be 'J. A. Fischetti', located at the bottom right of the page.